

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

Judge Thomas J. Tucker

Chapter 9

**CERTIFICATION OF NO RESPONSE OR OBJECTION
REGARDING CITY OF DETROIT'S OBJECTION TO
CLAIM NUMBER 1410 FILED BY WAWA PETROLEUM, INC.**

On August 19, 2019, the City Of Detroit ("City") filed *City of Detroit's Objection to Claim Number 1410 Filed by Wawa Petroleum, Inc.* ("Objection"). [Doc. No. 13096]. The Objection was served by the City upon counsel for Wawa Petroleum, Inc., John F. Harrington, by first class mail at the address listed in Claim Number 1410 ("Claim") for notices. Certificate of Service, attached as **Exhibit A**, Cover Page of Claim, **Exhibit B**. It was also served by first class mail on another attorney, Joel B. Sklar, who was listed on the Claim as the person who should receive any distributions made on the Claim. Certificate of Service. Finally, the Objection was served on all registered ECF participants in this case. Certificate of Service.

No responses to the Objection have been filed with the Court and the time to do so has passed. It should be noted, though, that the Objection mailed to Attorney Sklar was returned as undeliverable. Envelope, **Exhibit C**. This does not affect

the validity of the service for two reasons. First, the mail sent to the notice address was not returned and thus service is presumptively valid. Fed. R. Bankr. P. 3007(a)(2)(A). Second, if a claimant whose address changes fails to amend his or her proof of claim or file a change of address with the bankruptcy court to update the court's records, such that a claim objection cannot be delivered to him or her, the claimant waives the right to receive notice of any objections filed against his or her claim. *In re Auto-Train Corp.*, 57 B.R. 566 (Bankr. D.D.C. 1986) (finding "that the claimants' failures to advise the Court or the Trustee of their current addresses constitute waivers of the right to receive notice of the Trustee's objections")

The City thus respectfully requests that the Court enter an order sustaining the Objection, in substantially the same form as the one which was attached to the Objection. *See Proposed Order, Exhibit D.*

Respectfully submitted,

By: /s/ Marc N. Swanson

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raimic@detroitmi.gov

Attorneys for the City of Detroit

DATED: October 17, 2019

Exhibit A

EXHIBIT 3: CERTIFICATE OF SERVICE

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 19, 2019, he electronically filed the foregoing *City of Detroit's Objection to Claim Number 1410 Filed by Wawa Petroleum, Inc.* ("Objection") with the Clerk of the Court which will provide notice of the filing to all ECF participants registered in this case. A copy of the Objection was also served upon the following, via first class mail, on the same date:

John F. Harrington
Law Offices of John F. Harrington
30500 Van Dyke Ave., Ste M200
Warren, MI 48093

Joel B. Sklar
615 Griswold., Suite 1116
Detroit, MI 48226

By: /s/ Marc N. Swanson

Marc N. Swanson
150 West Jefferson, Suite 2500
Detroit, Michigan 48226
Telephone: (313) 496-7591
Facsimile: (313) 496-8451
swansonm@millercanfield.com

Dated: August 19, 2019

Exhibit B

B10 (Official Form 10) (04/13) (Modified)

UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT of MICHIGAN		CHAPTER 9 PROOF OF CLAIM
Name of Debtor: City of Detroit, Michigan		Case Number: 13-53846
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Wawa Petroleum, Inc.		<div style="font-size: 2em; font-weight: bold;">FILED</div> <div style="font-size: 0.8em; margin-top: 10px;">COURT USE ONLY</div> <div style="font-size: 0.8em; margin-top: 5px;"><input type="checkbox"/> This claim amends a previously filed claim.</div> <div style="font-size: 0.8em; margin-top: 10px;">US Bankruptcy Court Michigan Eastern District</div> <div style="font-size: 0.8em; margin-top: 5px;">Filed on: _____</div>
Name and address where notices should be sent: NameID: 11702271 Wawa Petroleum, Inc. Harrington, John F. Law Offices of John F. Harrington 30500 Van Dyke Ave Ste M200 Warren, MI 48093 Telephone number: _____ email: _____		
Name and address where payment should be sent (if different from above): Joel B. Sklar 615 Griswold, Suite 1116 Detroit, MI 48226 Telephone number: 313-963-4529 email: joelsklarlaw@gmail.com		<div style="font-size: 1.5em; font-weight: bold;">RECEIVED</div> <div style="font-size: 1.2em; font-weight: bold; margin-top: 10px;">FEB 24 2014</div> <div style="font-size: 0.8em; margin-top: 5px;">KURTZMAN CARSON CONSULTANTS</div>
1. Amount of Claim as of Date Case Filed: \$ <u>350,000.00</u> If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
2. Basis for Claim: <u>Personal injury lawsuit including claims under 42 USC 1983</u> (See instruction #2)		
3. Last four digits of any number by which creditor identifies debtor: <div style="text-align: center; font-weight: bold;">3846</div>		3a. Debtor may have scheduled account as: _____ (See instruction #3a)
4. Secured Claim (See instruction #4) Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable		Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____
5. Amount of Claim Entitled to Priority as an Administrative Expense under 11 U.S.C. §§ 503(b)(9) and 507(a)(2). \$ _____		
5b. Amount of Claim Otherwise Entitled to Priority. Specify Applicable Section of 11 U.S.C. § _____ \$ _____		
6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)		
7. Documents: Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A). If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain: _____		
8. Signature: (See instruction # 8) Check the appropriate box. <input type="checkbox"/> I am the creditor. <input checked="" type="checkbox"/> I am the creditor's authorized agent. <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor. <div style="text-align: center; font-size: 0.8em;">(See Bankruptcy Rule 3004.) (See Bankruptcy Rule 3005.)</div>		
I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief. Print Name: <u>Joel Sklar</u> Title: <u>Lawyer</u> Company: <u>Law Offices of Joel B. Sklar</u> Address and telephone number (if different from notice address above): <u>615 Griswold, Suite 1116</u> <u>Detroit, MI 48226</u> Telephone number: <u>313-963-4529</u> email: <u>joelsklarlaw@gmail.com</u>		

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

Exhibit C



NEOPOST

FIRST-CLASS MAIL

08/19/2019

US POSTAGE \$002.20

ZIP 48226
041M11280055

FIRST CLASS MAIL

SWANSON

**MILLER
CANFIELD**Miller, Canfield, Paddock and Stone, P.L.C.
150 West Jefferson, Suite 2500
Detroit, MI 48226

TOJoel B. Sklar
615 Griswold., Suite 1116
Detroit, MI 48226

NIXIE 482 4E 1 2209/04/19

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

BC: 48226443299 0080N247015-01442

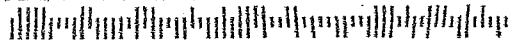


Exhibit D

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,
Debtor.

Bankruptcy Case No. 13-53846

Judge Thomas J. Tucker

Chapter 9

**ORDER SUSTAINING CITY OF DETROIT'S OBJECTION TO
CLAIM NUMBER 1410 FILED BY WAWA PETROLEUM, INC.**

Upon review of the *City of Detroit's Objection to Claim Number 1410 Filed by Wawa Petroleum, Inc.* (“Objection”),¹ seeking entry of an order disallowing and expunging Claim 1410; and it appearing that this Court has jurisdiction over the Objection under 28 U.S.C. §§ 157 and 1334 and Article VII of the Plan; and the Court finding that this is a core proceeding under 28 U.S.C. § 157(b)(2); and the Court finding that venue of this proceeding and the Objection in this District is proper under 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Objection is in the best interests of the City and its creditors; and due and proper notice of the Objection having been given as provided in the Objection; and it appearing that no other or further notice of the Objection need be given; and any objections or other responses to the Objection having been overruled or withdrawn; and the Court finding that the legal and factual bases set forth in the Objection and

¹ Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Objection.

at the hearing establish just cause for the relief granted; and after due deliberation and good and sufficient cause appearing therefore;

IT IS ORDERED that:

1. The Objection is sustained.
2. Claim 1410 filed by Wawa Petroleum is disallowed and expunged in its entirety under Section 502(b) of the Bankruptcy Code.
3. The City's claims agent is authorized to update the claims register to reflect the relief granted in this Order.
4. The City is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Objection.
5. Notice of the Objection as provided therein is good and sufficient notice of such objection, and the requirements of Bankruptcy Rule 3007(a) and the local rules of the Court are satisfied by such notice.